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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 UNITED STATES OF AMERICA,) CASE NO. CR04-208-MJP
09 Plaintiff,)
10 v.) SUMMARY REPORT OF U.S.
11 JERRY LEE BACKUS,) MAGISTRATE JUDGE AS TO
12 Defendant.) ALLEGED VIOLATIONS
OF SUPERVISED RELEASE
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14 An initial hearing on supervised release revocation in this case was scheduled before me
15 on January 18, 2006. The United States was represented by AUSA Annette Hayes and the
16 defendant by Michael Filipovic. The proceedings were digitally recorded.

17 Defendant had been sentenced in the District of Idaho on or about December 4, 2003 by
18 the Honorable Edward J. Lodge on a charge of Fraud and related activity in connection with
19 access devices, and sentenced to 10 months custody, 3 years supervised release. Defendant's
20 supervised release jurisdiction was transferred to this court on April 30, 2004 (Dkt. 3).

21 The conditions of supervised release included the standard conditions plus the requirements
22 that defendant participate in a drug dependency/substance abuse program, participate in a mental

01 health program, submit to search, provide access to financial information, not incur any new credit
02 without permission, perform 40 hours community service, and pay restitution in the amount of
03 \$1,220.77. (Dkt. 3).

04 Defendant's probation officer reported on October 5, 2004 that defendant tested positive
05 for alcohol and cocaine. (Dkt. 5). This was the first positive test since commencing supervision.
06 Defendant was reprimanded, placed in a structured testing program, referred for professional
07 assessment, and referred for intensive outpatient treatment.

08 On April 6, 2005, defendant's probation officer reported that defendant was using
09 marijuana for pain relief related to a back injury and was in arrears in his restitution payments.
10 Defendant agreed to stop using marijuana for pain relief and to get caught up in his payments. No
11 further action was taken at the time. (Dkt. 6).

12 In an application dated December 16, 2005 (Dkt 7), U.S. Probation Officer Michael S.
13 Larsen alleged the following violations of the conditions of supervised release:

14 1. Entering into a new credit contract on May 31, 2005 to purchase a vehicle without
15 the permission of the probation officer in violation of the special condition that he not incur any
16 new credit charges or open new lines of credit without the permission of the probation officer.

17 2. Using Percocet without a prescription on or about November 28, 2005, December
18 1, 2005 and December 8, 2005 in violation of the standard condition that he refrain from the
19 unlawful use of a controlled substance.

20 3. Using Vicodin without a prescription on or about December 4, 2005 and December
21 8, 2005, in violation of the standard condition that he refrain from the unlawful use of a controlled
22 substance.

01 In an application dated January 4, 2006 (Dkt 13), U.S. Probation Officer Michael S.
02 Larsen alleged the following additional violation of the conditions of supervised release:

03 4. Using Percocet without a prescription on or about December 20, 2005, in violation
04 of the standard condition that he refrain from the unlawful use of a controlled substance.

05 Defendant was advised in full as to those charges and as to his constitutional rights.

06 Defendant admitted alleged violations 2, 3, and 4 and waived any evidentiary hearing as
07 to whether they occurred. The government moved to dismiss violation number 1.

08 I therefore recommend the Court find defendant violated his supervised release as alleged
09 in violations 2, 3, and 4, that the Court dismiss violation 1, and that the Court conduct a hearing
10 limited to the issue of disposition. The next hearing will be set before Judge Pechman.

11 Pending a final determination by the Court, defendant has been released on the conditions
12 of supervision.

13 DATED this 18th day of January, 2006.

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15 Mary Alice Theiler
16 United States Magistrate Judge

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18 cc: District Judge: Honorable Marsha J. Pechman
19 AUSA: Annette Hayes, Lawrence Lincoln
20 Defendant's attorney: Michael Filipovic
21 Probation officer: Michael S. Larsen
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